REMARKS

Applicant is in receipt of the Final Office Action mailed December 11, 2007. Claims 1-20 were rejected and remain pending in the application. Reconsideration of the case is earnestly requested in light of the following remarks.

Provisional Double-Patenting Rejections

Claims 1-20 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-20 of co-pending application serial no. 11/229,965. Applicant respectfully requests that this rejection be held in abeyance until the claims of the '965 application are issued.

Section 103 Rejections

Claims 1-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Frolund et al., U.S. Patent No. 6,434,555 B1 (hereinafter "Frolund") in view of Johnson et al., U.S. Patent No. 6,338,146 B1 (hereinafter "Johnson") and further in view of Frolund et al., U.S. Patent No. 6,381,617 B1 (hereinafter "Svend", according to the Examiner's nomenclature). Applicant respectfully traverses these rejections.

Claim 1 recites in pertinent part:

in response to receiving a reply to the first message from at least a quorum of the participant nodes, sending a second message to the plurality of participant nodes;
in response to receiving a reply to the second message from at least a quorum of the participant nodes:
returning an indication to the client application that the request was successfully processed; and
sending a third message to the plurality of participant nodes, wherein the third message instructs the participant nodes to commit the transaction.

Applicant respectfully submits that the cited references, taken either singly or in combination, do not teach this combination of limitations.

Frolund relates generally to a three-tiered transaction processing system including a client tier, server tier, and database tier. Frolund teaches a <u>two-phase commit protocol</u>. (See Col. 6, lines 5-8). With respect to the limitation of, "sending a second message to the plurality of participant nodes," the Examiner has equated the second message with

Frolund's commit message 426. As well known to those familiar with two-phase commit protocols such as the protocol taught by Frolund, the commit message instructs the participants to commit the transaction (as the name "commit" implies).

The Examiner admits that Frolund does not teach, "sending a third message to the plurality of participant nodes, wherein the third message instructs the participant nodes to commit the transaction." The Examiner relies on Svend's disclosure to combine with Frolund to teach this limitation of the claim. However, as described above, it is Frolund's second message (which the Examiner has interpreted as Frolund's commit message) that instructs the participants to commit the transaction. Therefore, there is no reason for Frolund to send a third message that instructs the participants to commit the transaction, as recited in claim 1.

The Examiner asserts that:

> It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Frolund and Johnson with Svend to incorporate the feature of returning an indication to the client application that the request was successfully processed, the third message instructs the participant nodes to commit the transaction because this allows client to be able to determine whether the database update will be performed or not.

This line of reasoning pertains to the recited claim limitation of, "returning an indication to the client application that the request was successfully processed". The Examiner does not provide any reasoning or any evidence of any teaching in the cited references that would motivate one skilled in the art to modify Frolund to produce the recited limitations of, "sending a third message to the plurality of participant nodes, wherein the third message instructs the participant nodes to commit the transaction" in combination with the other limitations recited in claim 1. As discussed above, there is no reason for Frolund to send a third message that instructs the participants to commit the transaction because the participants are already instructed to commit the transaction by the second message (the commit message).

Applicant thus respectfully submits that the cited references, taken either singly or in combination, do not teach the subject matter recited in independent claim 1, and thus, claim 1 is patentably distinct over these references. Inasmuch as the independent claims

12, 14, and 18 recite similar limitations as those discussed above, Applicant respectfully submits that these claims are also patentably distinct over the cited references.

Applicant thus respectfully submits that all of the independent claims are patentably distinct over the cited references. Since the independent claims have been shown to be patentably distinct, Applicant respectfully submits that the dependent claims are also patentably distinct, for at least this reason. Applicant also respectfully submits that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion regarding the dependent claims is not necessary at this time.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-18600

Respectfully submitted,

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